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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/726,722

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Osamu Hasegawa

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01/12/2005

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GARDEN CITY, NY 11530

EXAMINER

ZHENG, EVA Y

ART UNIT

PAPER NUMBER

2634

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/726,722

Applicant(s)

HASEGAWA, OSAMU

Examiner

Eva Yi Zheng

Art Unit

2634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 11 is/are rejected.
- 7) ☒ Claim(s) 2-10 and 12-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Object to drawing has been withdrawn.
2. Claims 1-10 rejection under 35 U.S.C 112, first paragraph, has been withdrawn.
3. Applicant's arguments, see amendment, filed September 22, 2004, with respect to the rejection(s) of claim(s) 1-13 have been fully considered and are persuasive.

Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ogino.

### ***Claim Objections***

4. Claim 1 is objected to because of the following informalities: on line 6, recitation: "despread data:" should be changed to -- despread data, -- .

Appropriate correction is required.

5. Claim 11 is objected to because of the following informalities: on line 2, recitation: "communications system." should be changed to -- communications system, -- .

Appropriate correction is required.

6. Claim 13 is objected to because of the following informalities: on line 4, recitation: "a. branch " should be changed to -- a branch -- .

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogino (US 6,813,309 B1).

a) Regarding claim 1, Ogino disclose a mobile telephone apparatus operable in a CDMA (code division multiple access) communications system, comprising:

a despreading circuit (131 in Fig. 7) for despreading received spectrum-spread data of a plurality of branches to produce despread data each corresponding a plurality of fingers (102 in Fig. 6; Col 8, L65 – Col 9, L3);

a frequency offset detector (112 in Fig. 6; Col 11, L 32-36, frequency fading is directly related to frequency offset) for detecting a frequency offset for each of the fingers from the despread data;

a movement determiner (112 in Fig. 6; Col 11, L 32-39) for determining whether the mobile telephone is moving at speeds higher than a predetermined speed, based on frequency offsets received from the frequency offset detector; and

a control means (137 in Fig. 7) for switching an operation mode between a drive mode and a normal mode depending on whether the mobile telephone apparatus is moving at speeds higher than the predetermined speed (Fig. 10; Col 11, L40-56).

b) Regarding claim 11, Ogino disclose a method for detecting movement of a mobile telephone which is operable in a CDMA (code division multiple access) communications system comprising the steps of:

a) detecting a frequency offset (112 in Fig. 6; Col 11, L 32-36, frequency fading is directly related to frequency offset) for each of N fingers from despread data (131 in Fig. 7) which are obtained by despreading received spectrum-spread data of M branches, wherein N and M are integers greater than 1 (102 in Fig. 6; Col 8, L65 – Col 9, L3); and

b) determining (112 in Fig. 6; Col 11, L 32-39) whether the mobile telephone is moving at speeds higher than a predetermined speed, based on N frequency offsets detected by the step (a); and

c) switching (137 in Fig. 7) an operation mode between a drive mode and a normal mode depending on whether the mobile telephone is moving at speeds higher than said predetermined speed, as determined in step (b) (Fig. 10; Col 11, L40-56).

#### ***Allowable Subject Matter***

9. Claims 2-10 and 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eva Yi Zheng whose telephone number is (571) 272-3049. The examiner can normally be reached on 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-879-9306.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314 (for Technology Center 2600 only)**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Eva Yi Zheng  
Examiner  
Art Unit 2634

January 7, 2005



**SHUWANG LIU**  
**PRIMARY EXAMINER**